

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**WILLIAM EVANS**

**v.**

**CIVIL ACTION**

**NO. 05-6826**

**JEFFREY A. BEARD in his official capacity  
as Secretary of the Pennsylvania Dept. of  
Corrections, ATTORNEY GENERAL OF  
PENNSYLVANIA, SUPERINTENDENT  
OF THE SCI AT WAYMART, and DISTRICT  
ATTORNEY OF THE COUNTY OF LEHIGH**

**ORDER**

**AND NOW**, this 28th day of May, 2009, upon consideration of the petition for writ of habeas corpus, the Report and Recommendation of United States Magistrate Judge Smith and Petitioner's Objections, and all other relevant papers in the record, for the reasons set forth in the accompanying opinion, it is **ORDERED** that:

1. The Report and Recommendation is **ADOPTED IN PART**.
2. Petitioner's objections are **SUSTAINED IN PART**.
3. The petition for writ of habeas corpus is **GRANTED**.
4. The Superintendent of the State Correctional Institute at Waymart, Pennsylvania shall **RELEASE** petitioner from custody on the sentence imposed in Lehigh County Court of Common Pleas Case Number CP-125, '87 within thirty (30) days unless respondents appeal and obtain a stay from the Court of Appeals.
5. A certificate of appealability under 28 U.S.C. § 2253(c)(1)(A) is **GRANTED** as to all issues addressed in petitioner's objections to the Report and Recommendation.

  
J.